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FISCAL IMPACT STATEMENT

LS 6214

BILL NUMBER: SB 35

NOTE PREPARED: Jan 12, 2011

BILL AMENDED: Jan 11, 2011

SUBJECT: DNA Samples for Certain Arrests

FIRST AUTHOR: Sen. Zakas

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 X DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill requires every person arrested after June 30, 2011, for burglary, residential entry, a crime of violence, or a sex offense to submit a DNA sample. It provides for the expungement of a DNA sample taken from the person if the person is acquitted of all charges, the person's conviction is reversed, or the case is dismissed. It increases the DNA Sample Processing Fee from two dollars to four dollars. It also makes conforming amendments.

Effective Date: July 1, 2011.

Summary of NET State Impact: Depending on whether the new samples are analyzed by the Indiana State Police (ISP) or a vendor, LSA estimates the following expenditures for ISP for FY 2012 through FY 2015. Revenue generated by the increased DNA Sample Processing Fee should cover these added costs.

Summary of New Costs and Revenues*				
	FY 2012	FY 2013	FY 2014	FY 2015
Outsourcing Expense	\$481,838	\$481,838	\$481,838	\$481,838
In-House Expense	\$500,855	\$270,855	\$270,855	\$270,855
Additional Revenue (in \$M)	\$1.23	\$1.23	\$1.23	\$1.23
*Based on average of high and low estimates in state expenditures				

Explanation of State Expenditures: Current law requires offenders *convicted* of a felony after June 30, 2005, to provide a DNA sample to the Department of Correction (DOC), the county sheriff, or the agency supervising the individual. This bill requires any person *arrested* for committing a burglary, residential entry,

a crime of violence, or a sex offense after June 30, 2011, to provide a DNA sample. The estimated additional costs are provided in the table above for both in-house processing and outsourcing. (See *Explanation of State Revenues* concerning crimes for which a person could be arrested and required to submit DNA.)

Expungement: Besides the costs for collection and analysis, the cost to expunge the record of DNA could increase. Under current law, an individual may request expungement if the person was acquitted of all charges, the conviction on which the authority for inclusion is based has been reversed, or the case dismissed.

LSA examined the percentage of all felony cases that were filed in criminal court between 2004 and 2008 and later dismissed and acquittal rates published by the Bureau of Justice Statistics for felony cases in the 75 most populous counties in the United States. LSA estimates that 20% of all arrests will be either dismissed or acquitted. The total number of arrests that would need to be expunged could be 14 or less each day.

Annual Number of Arrests Expunged						
	Arrests		Percent of Cases Expunged		Working Days Per Year	Avg. Cases Expunged Per Day
Low	6,975	x	20%	÷	250	= 6
High	17,678	x	20%	÷	250	= 14

Effect on Department of Correction: DOC currently collects DNA samples of first-time offenders when they are committed to DOC facilities. Men are committed to the Reception Diagnostic Center, while women are committed to the Rockville Correctional Facility Intake Unit. This bill would reduce the responsibilities for staff at these two facilities.

Background Information: Estimating the Added Samples: LSA used the average number of DNA samples that ISP received and processed between CY 2006 and CY 2010 as the basis for projecting the new samples that this bill will generate. LSA uses both DNA samples received and processed for determining these added costs.

DNA Samples Received and Processed by Calendar Year					
DNA Samples That Are:	2007	2008	2009	2010 (estimated)	Average
Received	39,736	35,342	32,644	33,696	35,355
Processed	29,783	22,475	20,509	20,232	23,250

At LSA's request, the Indiana State Police surveyed nine states that have added DNA arrestee language to their statutes since 2003. Seven of these states, Alaska, Arizona, Louisiana, New Mexico, Tennessee, Texas, and Virginia, now require any person arrested for violent felonies to submit a DNA specimen. Based on their experience and on the number of offenders covered by this change in law who were committed to DOC in CY 2008, LSA projects that the number of DNA samples that the ISP will receive and be required to process will increase between 30% and 50%.

Based on the four-year average shown in the previous table, the following table shows projections of these

added samples.

New DNA Samples to be Received and Processed			
		Percentage Increase in Samples	
DNA Samples That Are:	Four-Year Average	30%	50%
Received	35,355	10,607	17,678
Processed	23,250	6,975	11,625

Estimating the Added Costs: Under current practice, ISP receives DNA samples from both county jails and DOC facilities. The felony offenders who are in county jails will be either placed on probation or in community corrections programs. ISP currently contracts with Strand Analytics to supply the sample kit and transport the sample for analysis from the jails. The State Police work with the staff at DOC's intake units to obtain the samples for processing.

ISP can collect and analyze this new set of arrestee samples in-house or by outsourcing. There are three cost components involved in DNA analysis. The following table projects what these added costs would be under both options.

Cost Components			
<u>Item</u>	<u>Comments:</u>	<u>In-House</u>	<u>Outsourced</u>
Specimen Kits and Shipping	Kits are used to collect specimens from all persons arrested and shipped to laboratory	\$6	\$15
Analysis	At the laboratory, staff examine and discard duplicates, and analyze and type new specimens	\$20	\$29
One-Time Start-up Costs	ISP would need new equipment to analyze added specimens	\$230,000	

Estimating Added Costs – The following table presents the costs to collect, ship, and analyze these added samples.

Cost Range for Processing New Samples for Persons Arrested in First Year If All Work Is Performed In-House										
Range	DNA Samples Received		DNA Kits and Shipping		Samples Processed		Analysis		Start-up Costs for New Instruments	Cost In Millions
Low	10,607	x	\$6.00	+	6,975	x	\$20.00	+	\$230,000	\$433,142
High	17,678	x	\$6.00	+	11,625	x	\$20.00	+	\$230,000	\$568,568
Average First Year										\$500,855
Average Second Year and Subsequent										\$270,855

Cost Range for Processing New Samples for Persons Who Are Arrested in First Year If All Work Is Outsourced									
Range	DNA Samples Collected		DNA Kits and Shipping		Samples Processed		Analysis		Cost
Low	10,607	x	\$15.00	+	6,975	x	\$29.00	=	\$361,380
High	17,678	x	\$15.00	+	11,625	x	\$29.00	=	\$602,295
Average									\$481,838

Explanation of State Revenues: *DNA Sample Processing Fee-* The DNA Sample Processing Fee is increased from \$2 to \$4 by the bill, and the revenue is projected to increase by \$1.23 M. This fee is assessed on any person who is found guilty of a crime (felony or misdemeanor), an infraction, or an ordinance violation. LSA projects that this revenue will increase in the first year because this fee applies to any person who is convicted or ordered to pay the fee beginning July 1, 2011, based on the fee's revenue history in CY 2008 through 2010.

Revenue Collected from DNA Sample Processing Fee			
FY	Revenue	Fee Amount	Average Revenue (In \$ Millions)
2008	\$1,109,818	\$2.00	\$1.23
2009	\$1,251,797	\$2.00	
2010	\$1,338,113	\$2.00	

Background Information- Crimes covered under this bill include the following.

Crimes Covered Under This Bill
Aggravated battery (IC 35-42-2-1.5)
Attempted murder (IC 35-41-5-1)
Burglary as a Class A felony or a Class B felony (IC 35-43-2-1)
Child exploitation (IC 35-42-4-4(b))
Child molesting (IC 35-42-4-3)
Child seduction (IC 35-42-4-7)
Child solicitation (IC 35-42-4-6)
Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age, and the person who confined or removed the victim is not the victim's parent or guardian
Criminal deviate conduct (IC 35-42-4-2)
Human trafficking (IC 35-42-3.5-1(c)(3)) if the victim is less than eighteen (18) years of age
Incest (IC 35-46-1-3)
Involuntary manslaughter (IC 35-42-1-4)
Kidnapping (IC 35-42-3-2)
Murder (IC 35-42-1-1)
Operating a motor vehicle while intoxicated causing death (IC 9-30-5-5)
Operating a motor vehicle while intoxicated causing serious bodily injury to another person (IC 9-30-5-4)
Possession of child pornography (IC 35-42-4-4(c))
Promoting prostitution (IC 35-45-4-4) as a Class B felony
Promotion of human trafficking (IC 35-42-3.5-1(a)(2)) if the victim is less than eighteen (18) years of age
Rape (IC 35-42-4-1)
Reckless homicide (IC 35-42-1-5)
Resisting law enforcement as a felony (IC 35-44-3-3)
Robbery as a Class A felony or a Class B felony (IC 35-42-5-1)
Sexual battery (IC 35-42-4-8)
Sexual misconduct with a minor as a Class A felony under IC 35-42-4-9(a)(2) or a Class B felony under IC 35-42-4-9(b)(2)
Sexual trafficking of a minor (IC 35-42-3.5-1(b))
Vicarious sexual gratification (including performing sexual conduct in the presence of a minor) (IC 35-42-4-5)
Voluntary manslaughter (IC 35-42-1-3)

Explanation of Local Expenditures: County sheriffs collecting the samples would incur additional costs to train staff in collecting samples and ensuring that the chain of evidence is not broken. Sheriff staff collect saliva from an arrested person by placing a cotton swab in the arrested person's mouth.

Explanation of Local Revenues:

State Agencies Affected: ISP; DOC.

Local Agencies Affected: Trial courts, local law enforcement agencies.

Information Sources: Kristine Crouch, CODIS Administrator, ISP; *Indiana Handbook of Taxes, Revenues, and Appropriations, 2009*; IC 35-50-1-2; Auditor's data, State Budget Agency
<http://apps1.sba.state.in.us/aud/aiproto.x.asp?bSubmit=Go&dtAODate=6%2F30%2F2010&nFundCenter=10470&request=RevTBEnc>

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